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Attorneys for Defendant
TEICHERT PIPELINES, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELIAZAR OLEA, on behalf of himself and
others similarly situated,

Plaintiffs,

v.

TEICHERT PIPELINES, INC.; and DOES 1
to 100, inclusive,

Defendants.

Case No.

CLASS ACTION

**NOTICE OF REMOVAL (28 U.S.C.
§§ 1331, 1367, 1441 (a) and (c), 1446 (a) (b)
and (c))**

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendant TEICHERT PIPELINES, INC. (“Teichert” or “Defendant”), by its undersigned attorneys, hereby gives notice of the removal of this action to the United States District Court for the Northern District of California on the grounds of federal question jurisdiction pursuant to 15 U.S.C. § 1681p. As the requisite “short and plain statement of the grounds for removal,” 28 U.S.C. § 1446(a), Teichert states as follows:

I. TIMELINESS OF REMOVAL

1. On or about February 23, 2021, Plaintiff ELIAZAR OLEA (“Plaintiff”) commenced an action in the Superior Court of the State of California, in and for the County of Alameda, entitled *Eliazar Olea v. Teichert Pipelines, Inc.*, Case Number RG21090068.

2. Teichert was served with process on March 25, 2021. (Ferrannini Decl. Exhibit A.)

3. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being timely filed with this Court within 30 days after service of the Complaint on Teichert.

II. VENUE

4. The Superior Court of the State of California, Alameda County, is within the United States District Court for the Northern District of California.

5. Thus, pursuant to 28 U.S.C. §§ 84 and 1441(a), venue in the United States District Court of the Northern District of California is proper.

III. FACTUAL AND PROCEDURAL BACKGROUND

6. Teichert employed Plaintiff as a laborer from in or about 2018 through 2019. As part of its hiring process, Teichert conducts background checks on pipeline employees.

7. Plaintiff alleges that Teichert's background check disclosure forms are inadequate under Federal and California law. (Complaint ¶ 3.) Plaintiff's claims under the Fair Credit Reporting Act ("FCRA") and the equivalent California statutes arise from the background check forms given to Plaintiff when he was hired. (*Id.* ¶¶ 20-26.)

8. In his Complaint, Plaintiff seeks to represent three putative classes of employees. (*Id.* ¶ 28.).

a. The FCRA Class, defined as "All current, former, and prospective employees of Defendants in the United States at any time during the period for which a background check was performed beginning five years prior to the filing of this action and ending on the date that final judgment is entered in this action." (*Id.* ¶ 28(a).)

b. The ICRAA Class, defined as "All current, former, and prospective employees of Defendants in California at any time during the period for which a background check was performed beginning five years to the filing of this action and ending on the date that final judgment is entered in this action." (*Id.* ¶ 28(b).)

c. The CCRAA Class, defined as "All current, former, and prospective employees of Defendants in California at any time during the period for which a background check was performed beginning five years to the filing of this action and ending on the date that final judgment is entered in this action." (*Id.* ¶ 28(c).)

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1 IV. COMPLIANCE WITH STATUTORY REQUIREMENTS

2 9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal and a Notice of
3 Filing of this Notice of Removal is being served upon Plaintiff through his attorney of record and
4 upon the Clerk of the Superior Court for the State of California, County of Alameda.

5 10. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings,
6 and orders served upon Teichert in the Superior Court for the State of California, County of
7 Alameda, Case Number RG21090069, are attached to the accompanying Declaration of Cassandra
8 Ferrannini as **Exhibit A**.

9 11. The defendants that Plaintiff designated as Does One through 100 are fictitious
10 defendants. To Teichert's knowledge, they have not been served and therefore do not have to join
11 in the Notice of Removal. *See Salveson v. Western States Bankcard Assoc.*, 731 F.2d 1423, 1429
12 (9th Cir. 1984) ("Our circuit rule is that a party not served need not be joined; the defendants
13 summonsed can remove by themselves."), *superseded by statute on unrelated grounds* as noted in
14 *Ethridge v. Harbor House Rest.*, 861 F.2d 1389, 1392 n. 3 (9th Cir. 1988).

15 V. FEDERAL QUESTION JURISDICTION PURSUANT TO THE FCRA

16 12. A state court action may be removed to federal court if the federal court would
17 have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). This is a civil action over which
18 this Court has original jurisdiction under 28 U.S.C. § 1331.

19 13. Under Section 1681p of the FCRA, the district courts of the United States have
20 original jurisdiction over any action brought "to enforce liability created under [the FCRA].
21 Therefore, Teichert may remove this action pursuant to 28 U.S.C. § 1441 because Plaintiff's
22 claims raise federal questions.

23 VI. SUPPLEMENTAL JURISDICTION

24 14. This Court has supplemental jurisdiction of state law claims so long as "they form
25 part of the same case or controversy under Article III of the United States Constitution." 29 U.S.C.
26 § 1367(a). Plaintiff's state law claims arise from the same hiring process and background check
27 disclosure documents as his Federal claims. (Complaint. ¶ 20-26.) This action is therefore
28 removable in its entirety.

VII. CONCLUSION

WHEREFORE, Teichert respectfully removes the above-entitled action now pending before the Superior Court of the State of California for the County of Alameda to this Court.

DATED: April 26, 2021

DOWNEY BRAND LLP

By: /s/ Cassandra M. Ferrannini
CASSANDRA M. FERRANNINI
Attorney for Defendant
TEICHERT PIPELINES, INC.

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